

CHATTANOOGA CITY CHARTER

Title 4

COURTS, FINES AND IMPRISONMENTS¹

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CHAPTER I. IN GENERAL

Sec. 4.1. Jurisdiction and appeals from city court for ordinance violations; contempt; trial required within twenty-four hours of arrest.

The city court shall be a court of record and shall have original and exclusive jurisdiction of all violations of municipal ordinances, and shall also be clothed with the same powers and duties possessed by justices of the peace, touching the arrest and the preliminary trial, discharging, binding over or punishing under the small offense law, all persons charged with offenses against the state, committed within the city. In all city cases, in which the fine imposed does not exceed ten dollars (\$10.00), the judgment of the city court shall be final and no appeal shall be had therefrom. In all other cases an appeal may be taken to the circuit [criminal] court of Hamilton County, as now provided by law.

The city court and the judge thereof shall have and exercise the same jurisdiction in cases of contempt of court as is now provided by statute for circuit and criminal courts and the judges thereof.

Every person arrested on the charge of violating an ordinance, or on process issuing from the city court, shall be presented to the court for trial within twenty-four hours after his arrest, unless Sunday shall intervene. (Priv. Acts 1901, Ch. 432, § 77; Priv. Acts 1901, Ch. 495, § 5; Priv. Acts 1915, Ch. 221)

¹ **Cross references**-Election of city judge, Title 5; limitation on fines, § 2.1(40).

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Sec. 4.2. Jurisdiction and appeal from city court for violations of state law.

The city court of the City of Chattanooga in Hamilton County is hereby vested with jurisdiction to try and determine and render final judgment in all misdemeanor cases brought before said court by warrant wherein the person charged with such misdemeanor offenses enters a plea of guilty, or requests a trial upon the merits, and expressly waives an indictment, presentment and grand jury investigation, and a jury trial. In such cases the trial shall proceed before the judge and without a jury. The final judgment of such court may be appealed to the criminal court of Hamilton County, where such appeal shall be tried by a judge of such court without a jury, and without indictment or presentment. The jurisdiction hereby conferred shall be exercised within the corporate limits of the City of Chattanooga, but concurrently with criminal court of Hamilton County as hereinafter provided. (Priv. Acts 1937, Ch. 868, § 1)

Sec. 4.3. Jurisdiction of criminal court of Hamilton County; method of bringing cases to trial.

The criminal court of Hamilton County is hereby vested with jurisdiction to try and determine and render final judgment in all misdemeanor cases brought before said court upon warrant or information by the district attorney general wherein the person charged with such misdemeanor offense enters a plea of guilty, or requests a trial upon the merits, and expressly waives an indictment, presentment, grand jury investigation, and a jury trial. In such cases, the trial shall proceed before the judge and without a jury. The jurisdiction hereby vested shall extend to misdemeanor cases committed in Hamilton County.

Any person who has been committed to jail, or placed under bond to appear before the criminal court in any misdemeanor case by judgment of a justice of the peace may demand a trial before the criminal court upon waiving an indictment, presentment and grand jury investigation and a jury trial. In such cases, speedy trial shall be held before a judge of such court without a jury.

It shall be the duty of the district attorney general to ascertain from persons held in jail whether they desire to avail themselves of such procedure.

Such trials may be held upon the original warrants, or upon an [any] information filed by the district attorney general. (Priv. Acts 1937, Ch. 868, § 2)

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Sec. 4.4. Court costs; litigation tax not required.

In all trials provided by this Act [sections 4.2 and 4.3 of this charter], the costs as now provided by law shall be taxed and collected, except that no state and county litigation tax shall be charged or collected.

In all cases tried in city court of Chattanooga for the violation of ordinances of said city, fees shall be taxed by the clerk of the city court in an amount to be set by ordinance for all matters and services including, but not limited, to the following:

Issuing warrant or other original process
Judgment
Docketing
Continuance
Recognizance bond
Appeal bond
Issuing subpoena for a single witness
Issuing subpoena for each additional witness
Taxing cost
Mittimus to workhouse
Officer's cost, arrest
For each witness summoned
Continuance requiring officer's attendance

(Ord. No. 11310, §1, 08-22-02)

Such part of said fees as may accrue in each case shall be taxed by the clerk as a part of the cost, and collected from the defendant in addition to the fine imposed by the court. In the event the fine is not paid and the defendant is sent to the workhouse, the city court clerk shall certify to the warden of the city workhouse the amount of costs in each case in addition to the fine imposed by the court.

The clerk of the city court shall, at least once in each week, pay to the city finance officer the fines and costs collected. If the city court clerk shall fail to collect the costs in a case where the fine is paid, he shall be liable to the city for the amount not collected.

The city judge shall not in cases involving violations of the parking ordinance, impose court costs in fining a violator provided, that in the event the violator of the ordinance shall wilfully fail to appear to answer a parking ticket and it is necessary that a warrant be issued for his or her arrest, then, the costs provided in section 2 hereof [this section] shall be taxed as costs against such violator. If this section [paragraph] should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining sections of this Act [paragraphs of this section].

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At the time the city court clerk pays to the city finance officer the fines and costs collected by him each week, he shall file a written report over his signature, showing the amount collected as costs and the amount collected as fines. The city finance officer shall pay over to the city treasurer the amount of costs collected which shall be kept in a separate account by the city treasurer and shall be earmarked for and used in paying increases in salaries to regular policemen, detectives and firemen.

The sum of five dollars (\$5.00) [shall] be added as and in the nature of court cost to the cost incurred in the city court of the City of Chattanooga on all forfeitures of fines or monies for or on conviction for violation of any city ordinances and that said increase in court costs for the city court of the City of Chattanooga be collected by the clerk of said court and paid over to the treasurer of the City of Chattanooga who will account for said funds and pay same over to the trustees of the firemen's and policemen's insurance and pension fund together with all other monies properly collected for credit to said fund as herein before [hereinbefore] set out. (Priv. Acts 1937, Ch. 868, § 3; Priv. Acts 1945, Ch. 425, §§ 2-6; Priv. Acts 1969, Ch. 165, § 1; Ord. No. 10742, § 1(1), 8-18-98)

Editor's note-The paragraph of § 4.4 beginning "The sum of five dollars ..." is derived from § 1, Ch. 165, Private Acts 1969.

(Paragraph 13(b) of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 4.5. Sessions of city court; signing of minutes and process.

A session of said city court shall be held daily except for holidays and weekends. At the opening of each session, the minutes of the preceding session shall be read and signed by the judge in open court. When a fine has been imposed and the minutes signed, the judge shall have no power to remit or release the same or any part thereof. All process issuing from said court shall be signed by either the judge or the clerk thereof. (Priv. Acts 1901, Ch. 432, § 78)
(Ord. No. 11308, §1, 08-22-02)

Sec. 4.6. Judge and clerk of city court may administer oaths.

Both the judge and clerk of said [city] court shall be authorized to administer oaths and affirmations. (Priv. Acts 1901, Ch. 432, § 81)

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Sec. 4.7. City declared civil district; justices of the peace.

The first civil district [of Hamilton County] shall embrace all the territory now included or which may be hereafter included within the corporate limits of the City of Chattanooga, the county side of said county and now constituting the First Civil District of Hamilton County.

The second civil district, created by this Act [section] shall contain all that territory south and east of the Tennessee River which lies north and east of the corporate limits of the City of Chattanooga, together with all that territory lying and being in what was formerly James County.

The third civil district shall include all that territory lying south of the Tennessee river which lies southwest of the corporate limits of the City of Chattanooga which now comprises the territory of the voting precincts of Lookout Mountain, Grandview and Wauhatchie, together with all that territory north and west of the Tennessee River not in the corporate limits of Chattanooga, and the same shall constitute and be the third civil district of the county.

The three (3) justices of the peace and the two (2) constables now serving from the first civil district shall continue to represent the first civil district in the performance of their official duties until the expiration of their terms of office. (Priv. Acts 1945, Ch. 45, §§ 1, 2)

Sec. 4.8. City workhouse.

The City Council of Chattanooga, shall have power to erect a workhouse and lockup, or calaboose, for the safekeeping of persons; and when any person convicted of a violation of any ordinance of said corporation, fails or refuses to pay or secure to be paid, the fine and costs accruing thereon, the City Council may provide by ordinance, for their confinement in said lockup or workhouse, and put them to work for the city, either within an enclosure or on the streets, and other public works of the city, under proper guard, at such wages as the board may adopt by ordinance, until said fine and costs are paid. (Priv. Acts 1869-70, Ch. 4, § 12; Priv. Acts 1911, Ch. 10, §§ 3, 13)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Cross reference-Limitation on fines, § 2.1(40).

Sec. 4.9. City-county workhouse.

The City Council may provide, if they see fit, a city workhouse, either within or without the corporate limits of said city, where any person convicted of offenses against the laws and ordinances of the City of Chattanooga who fails to pay or secure the fine imposed upon him shall be committed and confined until such fine and cost shall have been fully paid,

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or until the fine has been remitted; or to contract with Hamilton County to keep such prisoners in the workhouse of said county and provide by said contract for the commitment of such persons to the workhouse or county jail until such fine and cost shall be fully paid. Every person committed to either the city or county workhouse shall be allowed credit upon such fine and cost at the rate allowed by law for each day served until the fine and cost is fully satisfied, at which time the person shall be released. (Priv. Acts 1929, Ch. 652, § 2)

(Paragraphs 3 and 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 4.10 -- 4.19. Reserved.

CHAPTER II. CITY JUDGE²

Sec. 4.20. Qualifications.

No person shall be eligible to the office of city judge unless he shall have been for at least one year next before his election a citizen of Tennessee and a resident of said city. (Priv. Acts 1911, Ch. 10, §§ 4, 22; Priv. Acts 1919, Ch. 76)

Sec. 4.21. Vacancies in office.

Any vacancy occurring in the office of the city judge shall be filled by appointment of the mayor, concurred in by the city council, which appointment shall be valid only until the next primary or general election or referendum which is held in the city after the vacancy occurs. (Priv. Acts 1911, Ch. 10, § 22; Ord. No. 11010, § 1, 5-9-00)

² **Cross reference-**Minimum salary of city judge, § 3.7.

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Sec. 4.22. Oath of office; bond.

The city judge shall take an oath of office and enter into a bond, with good security, to be approved by the City Council, in the sum of five thousand dollars (\$5,000.00), payable to the City of Chattanooga, and conditioned for the faithful discharge of the duties of his office, and in addition thereto, shall give bond, as required by law, as a justice of the peace, to account for fines and forfeitures due to the State of Tennessee. (Priv. Acts 1868, Ch. 45, § 15; Priv. Acts 1911, Ch. 10, § 13)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

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Sec. 4.23. Salaries to be paid semi-monthly.

The annual salaries so fixed for all such city officials shall be payable in equal semi-monthly installments. (Priv. Acts 1949, Ch. 627, § 3; Priv. Acts 1970, Ch. 343, § 3)

Editor's note-Prior to the enactment of Private Acts 1970, Ch. 343, § 3, § 4.23 provided: "The salary of the city judge shall be payable in monthly installments."

Cross reference-Minimum salary of city judges, § 3.6.

Sec. 4.24. Special city judge-Election; to act in absence of city judge.

If for any reason the judge of the city court should fail to attend any daily session of said court, it shall be the duty of the clerk of said court to open court and hold an election, to be participated in by the attorneys present for the selection of a special judge to preside during the absence of the regular judge. Such election shall be governed by the same rules as now prevail for the election of special judges in the circuit and criminal courts of the state. (Priv. Acts 1917, Ch. 713)

Sec. 4.25. Same-Powers; compensation.

Such special judge shall take the same oath and be clothed with the same powers pro tempore, as the regular judge. If he shall serve for a longer period than five (5) days he shall be paid such compensation as the City Council by ordinance may allow, not exceeding the salary for the same time as the regular judge, and the ordinance shall also provide how much, if any, of the compensation shall be deducted from the salary of the regular judge. (Priv. Acts 1901, Ch. 432, § 78; Priv. Acts 1911, Ch. 10, § 13)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 4.26. Same-Clerk to enter on minutes call and result of election, etc.

It shall be the duty of the clerk to enter upon his minutes the call and result of such election and the administering of the oath of office by said clerk to such special judge. (Priv. Acts 1917, Ch. 713)

Sec. 4.27. Divisions of city court; presiding judge of first division.

The city court is hereby divided into two (2) divisions, and a first division and a second division are hereby created. The present city judge shall preside over the first division of the city court. (Priv. Acts 1969, Ch. 102, § 2)

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Sec. 4.28. Judge of second division; powers, jurisdiction, compensation.

The judge of the second division shall possess the same powers and jurisdictions as are now possessed by the city court and the city judge, and shall receive such compensation as the City Council shall provide by ordinance. (Priv. Acts 1969, Ch. 102, § 3)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 4.29. Reserved.

(Ord. No. 11014, § 1, 5-9-00)

Sec. 4.30. Emergency special judges.

The mayor is hereby authorized and empowered to appoint emergency special judges of the city court during any period of emergency proclaimed by the mayor or any other state or municipal official authorized to proclaim a state of emergency in the city. Such emergency special judges shall possess all the judicial power and jurisdiction now conferred on the city court or city judge; may hold court sessions at such place or places as the judge of the first division may designate, either at the city courtroom or elsewhere, as the exigencies of the situation may demand; and the authority of such emergency special judges shall cease at the termination of the state of emergency. (Priv. Acts 1969, Ch. 102, § 7; Priv. Acts 1969, Ch. 180, § 3)

Secs. 4.31 -- 4.36. Reserved.

CHAPTER III. CLERK OF CITY COURT

Sec. 4.37. Reserved.

(Ord. No. 11018, § 1(1), 5-16-00)

Sec. 4.38. Clerk.

The mayor shall appoint the city court clerk at the time (s)he appoints all other department heads, subject to confirmation by a majority vote of the entire membership of the council. The term of the clerk shall be concurrent with that of the mayor and until the clerk's successor is appointed and qualified. The mayor may remove the clerk at any time with the approval of a majority vote of the entire membership of the council.

(Priv. Acts 1901, Ch. 432, § 76; Ord. No. 10742, § 1(1), 8-18-98; Ord. No. 11018, § 1(1), 5-16-00)

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Sec. 4.39. Keeping of minutes and dockets.

The clerk of said court shall keep the minutes of the court in the same manner that the minutes of the circuit courts of said state are required by law to be kept. He shall also prepare for each session of the court a docket of all cases not previously disposed of. (Priv. Acts 1901, Ch. 432, § 80)

Sec. 4.40. Duties pertaining to functioning of court.

The clerk of the city court is hereby authorized to issue all writs and processes necessary to the functioning of said court; to administer oaths and to take acknowledgments; and to accept appearances, waivers and pleas of guilty to citations issued for traffic violations. (Priv. Acts 1969, Ch. 102, § 5)

Secs. 4.41 -- 4.49. Reserved.

CHAPTER IV. FINES, PENALTIES AND FORFEITURES

Sec. 4.50. Maximum fine for violation of ordinance.

The City Council shall have power by ordinance (a) to provide for fines, forfeitures and penalties for the breach of any ordinance of the city and for the enforcement, recovery and appropriation of the same, and (b) to provide for confinement in a workhouse for failures to pay any fine. (Priv. Acts 1901, Ch. 432, § 11; Priv. Acts 1911, Ch. 10, § 13; Priv. Acts 1969, Ch. 82, § 2) (Ord. No. 11305, §1, 08-22-02)

Editor's note-Prior to the enactment of Priv. Acts 1969, Ch. 82, § 2, § 4.50 provided: "The board of commissioners shall have power by ordinance to impose fines not to exceed fifty dollars (\$50.00) for the violation of any ordinance."

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 4.51. Suits for and recovery of fines, penalties and forfeitures.

All fines, penalties or forfeitures imposed by the bylaws and ordinances of said corporation, shall be sued for and recovered as other moneys are under the existing laws of the state, by the City Council of said corporation, and for the use of said town [city]. (Acts 1839, Ch. 32, § 5; Priv. Acts 1911, Ch. 10, § 13)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

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Sec. 4.52. Deductions from sentence of city prisoners for good conduct.

The City Council may, for good conduct, authorize deductions from the time of city prisoners under its control. (Priv. Acts 1901, Ch. 432, § 48; Priv. Acts 1911, Ch. 10, § 13) (Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)